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DEPARTMENT OF COMMERCE  
International Trade Administration  
[A-570-831]

Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On December 12, 2012, the Department of Commerce (Department) published the Preliminary Results of the 2010-2011 administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC). The period of review (POR) is November 1, 2010, through October 31, 2011.<sup>1</sup> The final dumping margins are listed in the "Final Results of Review" section below.

EFFECTIVE DATE: [Insert date of publication in the Federal Register]

FOR FURTHER INFORMATION CONTACT: Lingjun Wang and David Lindgren, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2316 and (202) 482-3870, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 2012, the Department published the Preliminary Results.<sup>2</sup> In January, the Department conducted verification of Golden Bird. On March 25, 2013, the Department fully extended the time limit for these final results by 60 days to June 10, 2013.<sup>3</sup>

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<sup>1</sup> See Fresh Garlic From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 73980 (December 12, 2012) (Preliminary Results), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> Id., 77 FR at 73981.

<sup>3</sup> See Memorandum to Edward Yang, Senior Director, China/Non-Market Economy Unit regarding "Fresh Garlic from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated March 25, 2013.

The Department received case briefs from Petitioners,<sup>4</sup> Hebei Golden Bird Trading Co., Ltd. (Golden Bird), Shenzhen Xinboda Industrial Co., Ltd. (Xinboda), Weifang Hongqiao International Logistics Co., Ltd. (Hongqiao) and Zhengzhou Huachao Industrial Co., Ltd. (Huachao) on April 25, 2013. Further, between April 30 and May 2, 2013, Petitioners, Golden Bird, Xinboda, Hongqiao, and Jinxiang Hejia Co., Ltd. (Hejia) filed rebuttal briefs. No other case or rebuttal briefs were filed by interested parties.

#### Scope of the Order

The products subject to the order are all grades of garlic, whole or separated into constituent cloves. Fresh garlic that is subject to the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 2005.99.9700. A full description of the scope of the order is contained in the Final Decision Memorandum, incorporated by reference.<sup>5</sup> The written description is dispositive.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Final Decision Memorandum, dated concurrently with this notice and hereby adopted by this notice. A list of the issues raised in the briefs and addressed in the Final Decision Memorandum is appended to this notice.<sup>6</sup> The Final Decision Memorandum is on file electronically via Import Administration's

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<sup>4</sup> Petitioners are the Fresh Garlic Producers Association, its individual members being Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

<sup>5</sup> See Memorandum to Paul Piquado, Assistant Secretary for Import Administration from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Issues and Decision Memorandum for the Final Results and Rescission, in Part, of the Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China," dated concurrently with this notice (Final Decision Memorandum).

<sup>6</sup> See Appendix I.

Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Final Decision Memorandum and the electronic versions of the Final Decision Memorandum are identical in content.

#### Changes Since the Preliminary Results

For the final results, based on analysis of the comments received and our review of the record, the Department has made certain changes to the margin calculations for each respondent. Detailed discussions of these changes can be found in the Final Decision Memorandum, the Final Surrogate Values Memorandum, Golden Bird's Final Calculation Memorandum, and Xinboda's Final Calculation Memorandum.<sup>7</sup> In addition, because we have calculated a de minimis rate for the two mandatory respondents, consistent with our practice, we have assigned to the companies not selected for individual examination the most recently-calculated rate under this order which was not affected by the Department's zeroing methodology, i.e., \$1.28 per kilogram (kg.), the rate in the 08/09 Garlic NSR.<sup>8</sup> See Appendix II.

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<sup>7</sup> See Memorandum to the File "Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Final Results of Antidumping Duty Administrative Review – Hebei Golden Bird Trading Co., Ltd.," dated June 10, 2013 (Golden Bird's Final Calculation Memorandum); see also Memorandum to the File "Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Final Results of Antidumping Duty Administrative Review – Shenzhen Xinboda Industrial Co., Ltd.," dated June 10, 2013 (Xinboda's Final Calculation Memorandum); see also Memorandum to the File "Fresh Garlic from the People's Republic of China: Surrogate Values for the Final Results" dated June 10, 2013 (Final Surrogate Values Memorandum).

<sup>8</sup> See Fresh Garlic From the People's Republic of China: Final Results of New Shipper Review, 75 FR 61130 (October 4, 2010) (08/09 Garlic NSR). Because the rate in this review was based on a single U.S. sale, it was not impacted by the zeroing methodology.

### PRC-Wide Entity

We will treat all seven companies listed in Appendix III as part of the PRC-wide entity for these final results. Accordingly, these seven companies will be subject to the PRC-wide entity and have been assigned the PRC-wide rate of \$4.71 per kilogram. See Final Decision Memorandum for our determination with respect to the PRC-wide entity.

### Final Determination of No Shipments

In the Preliminary Results, after confirming their “no shipment” certifications with U.S. Customs and Border Protection (CBP) we determined that five companies<sup>9</sup> did not have any reviewable transactions during the POR. On December 5, 2012, after the Preliminary Results were published, three additional companies<sup>10</sup> notified the Department via-email that they had timely filed no shipment certifications but were instead included as part of the PRC-wide entity. The Department discovered that those certifications were filed in IA ACCESS with an incorrect POR end date of October 30, 2011, instead of October 31, 2011, which resulted in their exclusion from the POR record but the submissions remained on the Order’s record.<sup>11</sup> The three certifications were timely filed and served with no deficiencies, and this minor error was easily remedied; as such, the Department had no basis to reject them. Subsequently, we confirmed the “no shipment” claims with CBP.

Therefore, the Department has made the final determination that eight companies did not have any reviewable entries of subject merchandise during the POR, and will issue appropriate instructions that are consistent with our “automatic assessment” clarification, for these final results.

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<sup>9</sup> See Appendix III #1 - #5

<sup>10</sup> See Appendix III #6 - #8

<sup>11</sup> See Memorandum to The File dated April 18, 2013, regarding Companies with No Shipments.

### Final Results of Review

The Department determines that the following dumping margins exist for the period November 1, 2010, through October 31, 2011.

Producer/Exporter	Weighted-Average Margin (U.S. Dollars per kilogram)
Hebei Golden Bird Trading Co., Ltd.	0.00
Shenzhen Xinboda Industrial Co., Ltd.	0.00
Qingdao Xintianfeng Foods Co., Ltd.	\$1.28/kg
Shandong Jinxiang Zhengyang Import & Export Co., Ltd.	\$1.28/kg
Weifang Hongqiao International Logistics Co., Ltd.	\$1.28/kg
PRC-Wide Rate.	\$4.71/kg

### Disclosure

The Department intends to disclose to parties to the proceeding the calculations performed within five days after the date of publication of final results in accordance with 19 CFR 351.224(b).

### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (i.e., per kilogram) amount on each entry of the subject merchandise during the POR. The Department intends to issue appropriate assessment instructions for such producers/exporters directly to CBP 15 days after the date of publication of this notice in the Federal Register. We will instruct CBP to assess

antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis. Where either the respondent's weighted-average dumping margin is zero or de minimis, or an importer-specific assessment rate is zero or de minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The Department recently announced a refinement to its assessment practice in non-market economy (NME) cases.<sup>12</sup> Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the NME-wide rate.<sup>13</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be the rate established in these final results of review; (2) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide entity rate of \$4.71 per kilogram; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC

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<sup>12</sup> See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

<sup>13</sup> Id.

exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

This notice also serves as a reminder to parties subject to an Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

\_\_\_\_ June 10, 2013 \_\_\_\_\_  
Date



## **APPENDIX I**

### **Issues Addressed in the Final Decision Memorandum**

- Comment 1: The Department's Non-Market Economy Policy
- Comment 2: Department's 15-Day Liquidation Instruction Policy
- Comment 3: Zeroing
- Comment 4: Differential Pricing
- Comment 5: India as the Surrogate Country
- Comment 6: Garlic Input Surrogate Value
- Comment 7: Price Adjustments to Fruit Inform
- Comment 8: GTA Ukraine Import Statistics
- Comment 9: Financial Statements
- Comment 10: Hejia's No Shipment Certification
- Comment 11: Hongqiao Eligibility for a Separate Rate
- Comment 12: Huachao's No Shipment Letter
- Comment 13: Cangshan's Factor Reporting
- Comment 14: By-Product vs Co-Product

## **APPENDIX II**

### **Companies Assigned a Separate Rate**

1. Qingdao Xintianfeng Foods Co., Ltd.
2. Weifang Hongqiao International Logistics Co., Ltd.
3. Shandong Jinxiang Zhengyang Import & Export Co., Ltd.

## **APPENDIX III**

### **Companies Included in the PRC-Wide Entity**

1. Foshan Fuyi Food Co., Ltd.
2. Henan Weite Industrial Co., Ltd.
3. Shandong Chenhe Intl trading Co., Ltd.
4. Shanghai LJ International Trading Co., Ltd.
5. Sunny Import & Export Limited
6. Zhengzhou Huachao Industrial Co., Ltd.
7. Zhengzhou Yuanli Trading Co., Ltd.

## **Appendix IV**

### **Companies Determined To Have No Shipments**

1. Chengwu County Yuanxiang Industry & Commerce Co., Ltd.
2. Jinan Farmlady Trading Co., Ltd.
3. Jinxiang Chengda Import & Export Co., Ltd.
4. Jinxiang Hejia Co., Ltd.
5. Qingdao Sea-line International Trading Co.
6. Jining Yongjia Trade Co., Ltd.
7. Qingdao Tiantaixing Foods Co. Ltd.
8. Yantai Jinyan Trading Co., Ltd.
- 9.
- 10.
11. [FR Doc. 2013-14329 Filed 06/14/2013 at 8:45 am; Publication Date: 06/17/2013]